

THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C14-2008-0099 - 1600 Block of East MLK

REQUEST: Approve third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1600, 1602, 1604 and 1606 E. Martin Luther King Jr. Boulevard (Upper Boggy Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to neighborhood commercial-mixed use-vertical mixed use building-conditional overlay-central urban redevelopment-neighborhood plan (LR-MU-V-CO-CURE-NP) combining district zoning. Staff Recommendation: To grant neighborhood commercial-mixed use-vertical mixed use building-conditional overlay- neighborhood plan (LR-MU-V-CO-NP) combining district zoning. Planning Commission Recommendation: To grant neighborhood commercial-mixed use-vertical mixed use building-conditional overlay-central urban redevelopment-neighborhood plan (LR-MU-V-CO-CURE-NP) combining district zoning.

ISSUES: The Blackland Neighborhood Association and the Blackland Community Development corporation support the request. A valid petition of 26.39% exists in opposition to the request.

APPLICANT: E-MLK Properties, L.L.C.

AGENT: Ryan Diepenbrock, PSW Real Estate.

DATE OF FIRST READING: December 11, 2008

DATE OF SECOND READING: January 15, 2009

CITY COUNCIL HEARING DATE: May 14, 2009

CITY COUNCIL ACTION:

April 23: Postponed on a vote of 7-0 approval of third reading to May 14 ordinance for neighborhood commercial-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (LR-MU-V-CO-NP) with all conditions outlined from second reading with the following conditions:

- all residential and commercial development shall comply with Austin Energy Green Building Program currently in effect, to achieve a minimum three-star rating;
- development of the property may not exceed 66 dwelling units;
- the space allotted for a commercial use may not exceed 2,499 square feet of site area including exterior seating;
- access to the residential parking structure shall be from Martin Luther King Jr. Boulevard; access to a parking area for a retail use on the property shall be from Leona Street; and
- a site plan or building permit for the property may not be approved, released, or issued, if the completed development or uses of the property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.

CASE MANAGER: Robert Heil 974-2330

e-mail address: robert.heil@ci.austin.tx.us

THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: NPA-2007-0012.02 - 1600 Block of East MLK

REQUEST: Approve third readings of an ordinance amending Ordinance No. 020801-91, the Upper Boggy Creek Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, to change the land use designation on the future land use map (FLUM) from single family to neighborhood mixed use for the properties located at 1600, 1602, 1604, and 1606 E. Martin Luther King, Jr. Blvd. (Boggy Creek Watershed). Staff Recommendation: To grant neighborhood mixed use. Planning Commission Recommendation: To grant neighborhood mixed use.

APPLICANT: E-MLK Properties, L.L.C.

AGENT: Ryan Diepenbrock, PSW Real Estate.

DATE OF FIRST READING: December 11, 2008

DATE OF SECOND READING: January 15, 2009

CITY COUNCIL HEARING DATE: May 14, 2009

CITY COUNCIL ACTION:

The second reading of the ordinance to change the land use designation to neighborhood mixed use approved on Mayor Pro Tem McCracken's motion, Mayor Wynn's second on a 4-3 vote. Those voting aye were: Mayor Wynn, Mayor Pro Tem McCracken and Council Members Cole and Shade. Those voting nay were: Council Members Leffingwell, Martinez and Morrison.

CASE MANAGER: Kathleen Fox, 974-7877

e-mail address: kathleen.fox@ci.austin.tx.us

**ZONING CHANGE AND NEIGHBORHOOD PLAN AMENDMENT
REVIEW SHEET**

CASE#: NPA-2007-0012.02 and C14-2008-0099

PC DATE: July 22, 2008

November 25, 2008

December 9, 2008

ADDRESS: 1600, 1602, 1604 and 1606 E. Martin Luther King Blvd

APPLICANT/OWNER: E-MLK Properties, LLC

AGENT: PSW Real Estate (Ryan Diepenbrock)

AREA: 1.00 acre

LAND USE FROM: Single Family

TO: Neighborhood Mixed-Use

ZONING FROM: SF-3-NP

TO: LR-MU-V-CO-CURE-NP (see below)

STAFF RECOMMENDATION:

Staff recommends

- 1) Neighborhood Mixed Use Land Use, and
- 2) Neighborhood Commercial – Mixed Use – Vertical Mixed Use – Conditional Overlay (LR-MU-V-CO-NP) combining district zoning. The conditional overlay would include limit the development to less than 2000 daily vehicle trips.

PLANNING COMMISSION RECOMMENDATION:

July 22, 2008: Approved staff recommendation for both the neighborhood plan amendment and the zoning change on a vote of 6-2-1.

NOTE: This case was originally heard by the Planning Commission on July 22, 2008. After that hearing, the applicant amended the zoning portion of his request, and the new zoning request was re-presented to Planning Commission. The neighborhood plan amendment portion of the request was not reconsidered.

November 25, 2008: Left open the public hearing and postponed action until December 9, 2008. (8-0-1) (Cavazos abstaining.) The reason for the postponement was to allow representatives of the surrounding Blackland Neighborhood to be present, and to get additional input from the City's Neighborhood Housing and Community Development Department.

December 9, 2008: Approved the applicant's request of LR-MU-V-CO-CURE-NP (8-0). The Commission also recommended that the private agreement between the applicant and Blackland Community Development Corporation specify that the affordability period be 99 years for purchased units and 40 years for rental units for those units included in the affordable housing portions of their agreement.

DEPARTMENT COMMENTS:

Originally, the applicant had requested to change the Future Land Use Map designation from Single Family to Neighborhood Mixed Use, and to change the zoning from single family residence-neighborhood plan (SF-3-NP) to neighborhood commercial-mixed use-vertical mixed use-conditional overlay-central urban redevelopment area - neighborhood plan (LR-MU-V-CO-CURE-NP). This request was presented to the Planning Commission on July 22, 2008.

This request was amended to a base zoning of neighborhood commercial (LR), and the addition of the Central Urban Redevelopment Area (CURE) overlay. Additionally, the applicant amended his neighborhood plan amendment request, to Neighborhood Mixed Use, which matches the recommendation of staff and the Planning Commission. The neighborhood plan amendment does not need to be reconsidered, however, the new zoning request is being presented for public hearing and Commission recommendation.

The applicant's zoning request is Neighborhood Commercial – Mixed Use – Vertical Mixed Use – Conditional Overlay – Central Urban Redevelopment – Neighborhood Plan (LR-MU-V-CO-CURE-NP) combining district zoning.

The requested **Conditional Overlay** includes:

- 3 Star Green Building Standards
- Maximum of 2000 daily vehicle trips
- Residential parking garage access will be off of MLK
- Retail parking access will be off of Leona
- Commercial or Retail space limited to 2,499 square feet on this site inclusive of exterior seating
- Residential Units limited to 59 unless written agreement with Blackland Neighborhood Association allowing additional. Parking constraints will limit any total to no more than 66 units

Additionally, the applicant has requested as part of **the CURE overlay**:

- No minimum site area requirements
- No minimum floor to area ratio
- No maximum building coverage
- Setback requirements comparable to those required by a Vertical Mixed Use (V) overlay
- Maximum impervious cover of 95%
- Height -
 - a. For mixed use retail development a height limit of 3 stories or 40' comprised of 38' for the building and 2' additional for rooftop solar energy and mechanical equipment. Retail development will be limited to a maximum of 2499sqft (inclusive of exterior patio seating) and located on the ground floor of the southeast corner of the site
 - b. For residential use, no more than 4 stories with an average height not to exceed a total of 50' comprised of 48' average building height plus 2' for rooftop solar energy and mechanical equipment. For purposes of calculating the average height the shorter height must begin at the eastern building setback on the 1606 MLK property.
- Commercial Design Standards: ground-floor commercial space and glazing requirements will be waived in favor of residential space. All other design standards to remain.

The applicant has also indicated his intent to provide affordable housing as part of the project – a minimum of 6 units affordable to families earning 60% or less of the median family income. Additional details are included in the attached agreement.

The stated intent is to construct a mixed-use project on a vacant one acre site located along E. Martin Luther King Blvd., which is a core transit corridor. The stated intent is to construct a mixed use project, which would consist of 10,000 sq. ft. of retail space, and approximately 35 to 50 units of residential condominiums or apartments in a building that would be three or four stories tall, or approximately 55 ft. in height.

Based on adjacent single-family houses, and the size of the subject property (one acre), staff believes that Neighborhood Mixed Use, rather than Mixed Use is more consistent with the Land Use recommendations in the Upper Boggy Creek Neighborhood Plan. Community Retail (LR) zoning is the highest base commercial zoning category permitted with the Neighborhood Mixed Use Land Use category and is the staff recommendation for base zoning for the site.

The UBC Planning Contact Team also recommends Neighborhood Mixed Use for this project. There has been a petition filed against the request including signatures of property owners representing 36.42% of the land with 200 feet of the subject tract. Since the petition was validated, one property owner, representing 6.03% of the property no longer opposes the project, and other property owners have indicated they no longer object but at this time have not formally removed their names from the petition. If this signer is removed the petition would represent owners of 30.21% of property within 200 feet.

EXISTING LAND USE AND ZONING

	ZONING	LAND USES
<i>Site</i>	SF-3-NP	Vacant and Single Family Homes
<i>North</i>	SF-3-NP	Vacant
<i>South</i>	P-H-NP	Cemetery
<i>East</i>	MF-3-NP	Single Family Homes
<i>West</i>	SF-3-NP	Vacant, Parking and Single Family Homes

NEIGHBORHOOD PLAN: The property lies within the Upper Boggy Neighborhood Plan (UBCNP) adopted on August 1, 2002. The future land use map for this neighborhood plan designates this site for single family residential use.

TIA: A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

WATERSHED: Boggy Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: No

REGISTERED COMMUNITY ORGANIZATIONS:

- Mueller Neighborhood Coalition
- Homebuilders' Association of Greater Austin
- Anberly Airport Association
- Homeless Neighborhood Association
- Davis Thompson American Mill Neighborhood Association
- Upper Boggy Creek Neighborhood Planning Contact Team
- Sentral Plus East Austin Koalition (SPEAK)
- Swede Hill Neighborhood Association
- Blackland Neighborhood Association
- Austin Neighborhood Council
- People Organized to Defend Earth and Her Resources (PODER)
- Blackland Community Development Corporation
- Organization of Central East Austin Neighborhoods (OCEAN)

SCHOOLS: (AISD)

Campbell Elementary Kealing Middle McCallum High

ABUTTING STREETS:

Name	ROW	Pavement	Classification	Daily Traffic
MLK Blvd.	75'	40'	Arterial	14,390
Concho Street	13'	unpaved	Local	NA
Leona Street	56'	30	Local	NA

PUBLIC MEETINGS: A neighborhood meeting on this case was held on July 2, 2008. Invitations were sent to the UBC Planning Team (the contact team) and property owners located within 500 feet of the proposed plan amendment. (Notes from this meeting are attached to this report.) The UBC Planning Team stated that although they still preferred a Single Family future land use designation along this portion of E. MLK Blvd., that they could also support Neighborhood Mixed Use if the project was compatible to adjacent single-family land uses.

CITY COUNCIL DATE: ACTION:

August 7, 2008	Postponed to August 21, 2008
August 21, 2008	Postponed to September 25, 2008
September 28, 2008	Postponed to October 16, 2008 at the request of the applicant.
October 16, 2008:	Pulled from the agenda at the request of the applicant. The zoning request was amended and the case returned to Planning Commission.
December 11, 2008	Public hearing closed and Neighborhood Mixed Use Land Use and LR-MU-V-CO-CURE-NP zoning both approved on first reading (5-2). Those voting aye were: Mayor Wynn, Mayor Pro Tem McCracken, and Council Members Cole, Martinez, and Shade. Those voting nay were: Council Members Leffingwell and Morrison.

January 15, 2009: The second reading of the ordinance to change the land use designation to neighborhood mixed use approved on Mayor Pro Tem McCracken's motion, Mayor Wynn's second on a 4-3 vote. Those voting aye were: Mayor Wynn, Mayor Pro Tem McCracken and Council Members Cole and Shade. Those voting nay were: Council Members Leffingwell, Martinez and Morrison.

March 12, 2009 Postponed to April 2, 2009 at the request of the applicant.

April 2, 2009: Postponed to April 23, 2009 at the request of the applicant.

April 23, 2009: The neighborhood plan amendment was postponed to May 14, 2009 at the Council's request on Mayor Pro Tem McCracken's motion, Council Member Cole's second on a 7-0 vote.

There was a motion by Mayor Pro Tem McCracken, seconded by Council Member Cole to approve the ordinance for neighborhood commercial-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (LR-MU-V-CO-NP) with all conditions outlined from second reading and to modify the income level from 80% to 50% VMU.

The revised motion by Mayor Pro Tem McCracken, seconded by Council Member Cole to postpone this item to May 14, 2009 was approved on a 7-0 vote with the following conditions. The conditions were as follows:

- all residential and commercial development shall comply with Austin Energy Green Building Program currently in effect, to achieve a minimum three-star rating;
- development of the property may not exceed 66 dwelling units; the space allotted for a commercial use may not exceed 2,499 square feet of site area including exterior seating;
- access to the residential parking structure shall be from Martin Luther King Jr. Boulevard; access to a parking area for a retail use on the property shall be from Leona Street; and
- a site plan or building permit for the property may not be approved, released, or issued, if the completed development or uses of the property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.

Direction was given to staff to be specific on how much affordable housing there will be at 50% under current proposal and to address reduction in parking allowed.

May 14, 2009:

ORDINANCE READINGS: 1st 12/11/08 2nd 1/15/2009 3rd

ORDINANCE NUMBER:

NEIGHBORHOOD PLANNING CASE MANAGER: Kathleen Fox

PHONE: 974-7877

Email: kathleen.fox@ci.austin.tx.us

ZONING CASE MANAGER: Robert Heil

PHONE: 974-2330

E-mail: robert.heil@ci.austin.tx.us

STAFF RECOMMENDATION:

Staff recommends

- 1) Neighborhood Mixed Use Land Use, and
- 2) Neighborhood Commercial – Mixed Use – Vertical Mixed Use – Conditional Overlay (LR-MU-V-CO-NP) combining district zoning. The conditional overlay would include:
 - Development be listed to less than 2000 daily vehicle trips
 - Prohibit vehicle access to Leona (access to Leona could be provided if the applicant completes a neighborhood traffic analysis).

BASIS FOR RECOMMENDATION:

Based on adjacent single-family houses, and the size of the subject property (one acre), staff believes that Neighborhood Mixed Use, rather than Mixed Use is more consistent with the Land Use recommendations in the Upper Boggy Creek Neighborhood Plan. The UBC Planning Contact Team also recommends Neighborhood Mixed Use for this project.

ANALYSIS:

The Future Land Use Map of the UBCNP recommends ‘**Single Family**’ for this portion of E. Martin Luther King Blvd.

Staff Comments: While the FLUM identifies this section of E. Martin Luther King Blvd. as Single Family, the text in the Land Use Section of the UBC Plan supports mixed use along E. Martin Luther King Blvd. (see below)

MLK BOULEVARD CORRIDOR (pg. 33 UBC Plan)

Objective 2.1: MLK Boulevard will become a mixed-use corridor that provides services and shopping in a neighborhood-friendly fashion. The streetscape along the MLK Boulevard Corridor—the southern boundary of the planning area—should be pedestrian friendly and promote a safe environment for pedestrians. This includes awnings on the fronts of buildings, street trees, benches, convenient trash bins, etc. Encourage new commercial or mixed-use development along the MLK Boulevard Corridor to locate parking to the side or at the rear of the structure. If in the future the University of Texas decides to locate a parking garage on its property west of Comal Street between MLK Boulevard and Manor Road, the affected neighborhoods and Upper Boggy Creek Neighborhood Planning Team should work with the University of Texas to develop a pedestrian and neighborhood-friendly facility.

- **Action Item 7.** Include a Mixed-Use Combining District and allow the Smart Growth infill option of Mixed-Use Building on all commercially zoned property along MLK Boulevard and limit the height of commercial buildings along the corridor to **forty (40) feet** (three stories).

Staff comments: The developer wants to build a 55 ft. tall mixed use building along E. Martin Luther King Blvd. The applicant's 55 ft. tall building appears not comply with the UBC Plan's desire to keep mixed use development to no taller than 40 ft. tall along E. Martin Luther King Jr. Blvd., and would not match the scale or height of nearby residential uses. The neighborhood also expressed concern during a July 2, 2008, neighborhood meeting that a mixed use project containing up to 50 units of residential

housing and 10,000 sq. ft. of retail could not accommodate all the parking on-site and worsen the street parking situation in the area.

Goal Three: HOUSING (pg. 44) - *Promote the rehabilitation of existing housing and construction of new housing to be compatible with the surrounding neighborhood and architecture for a variety of income levels*

- **Action Item 21.** The Blackland Community Development Corporation and other providers of affordable housing should continue to develop affordable housing for low-income families in the area defined by Leona Street, Manor Road, Chestnut Avenue and MLK Boulevard. Affordable housing for these purposes is defined as sixty percent of Austin area median family income. To this goal, the Upper Boggy Creek Neighborhood Planning Team supports the granting of variances to allow these parties to provide affordable housing. (*BOA, Neighborhoods*)

Staff comments: The applicant has held several meetings with the Blackland Neighborhood Association, who expressed concern that this project could reduce the amount of affordable housing located on or near E. Martin Luther King Blvd. However, the applicant has stated that they are committed to including an affordable housing element in their mixed use project (See attached neighborhood meeting notice and planning contact team minute)

Staff's interpretation of the UBC Neighborhood Plan's recommendations above is that the Plan does not support a mixed use project over 40 ft. tall along E. Martin Luther King Blvd. because of the neighborhood's desire to keep commercial and mixed use project in scale with the neighborhood. Based the UBC Plan, the UBC Planning Team's recommendations, nearby single family houses, and the size of the subject property, staff believes that Neighborhood Mixed Use rather than Mixed Use is more appropriate for this portion of E. Martin Luther King Blvd.

Site Plan

This site is located within the boundaries of the Central Urban Redevelopment (CURE) Combining District and is subject to § 25-2-163 of the Land Development Code. Additional comments will be made when the site plan is submitted.

Martin Luther King Blvd is a Core Transit Corridor, and any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

The site is subject to compatibility standards. Along the north, east and west property lines, the following standards apply:

- No structure may be built within 15 feet of the SF-3 zoned property lines.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the SF-3 zoned property lines.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the SF-3 zoned property lines.

- No parking or driveways are allowed within 25 feet of the SF-3 zoned property lines.
- A landscape area, fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- Additional design regulations will be enforced at the time a site plan is submitted.

Transportation

If the requested zoning is recommended for this site, 35 feet of right-of-way should be dedicated from the centerline of Concho Street in accordance with the Transportation Criteria Manual, in order to accommodate traffic anticipated to be generated by this site. LDC, 25-6-55; TCM, Tables 1-7, 1-12.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

A Neighborhood Traffic Analysis is required and will be performed for this project by the Transportation Review staff. Results will be provided in a separate memo. LDC, Sec. 25-6-114. FYI: The Neighborhood Traffic Analysis can be waived if the applicant agrees to restrict access to Martin Luther King, Jr. Boulevard only.

Other Information

- There are existing sidewalks along both sides of MLK Blvd.
- MLK Blvd. is classified in the Bicycle Plan as a Priority 1 bike route.
- Capital Metro bus service Route 18 is available along MLK Blvd.

Additional comments may be provided when more complete information is obtained.

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Boggy Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.

According to flood plain maps, there is no flood plain within the project area.

At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocation, and abandonment. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.



MEMORANDUM

TO: Robert Heil, Case Manager, NPZD
CC: Carter Shanklin
FROM: Amber Mitchell, WPDR
DATE: December 8, 2008
SUBJECT: Neighborhood Traffic Analysis for 1600 MLK
Zoning Case: 1600 MLK C14-2008-0099

The Transportation Section has performed a neighborhood traffic impact analysis for the above referenced case and offers the following comments.

The site is located in east Austin on Martin Luther King Jr. Blvd between Concho and Leona Streets near the intersection of IH and Martin Luther King Jr. Blvd. Currently zoned Family Residential Neighborhood Plan (SF-3-NP), the request is for Neighborhood Commercial Vertical Mixed Use Conditional Overlay Central Urban Redevelopment Combining District Neighborhood Plan (LR-MU-V-CO-CURE-NP). The applicant proposes a mixed-use development with ground floor retail and multi-family residences above. Surrounding the tract to the north, east, and west is single family, and to the south is a cemetery.

Roadways

Leona forms the eastern boundary of this site and is classified as a local street with 56 feet of right-of-way and 30 feet of pavement. Concho Street forms the western boundary of this site and is classified as a local street but is in substandard condition, essentially functioning as an alley with 15 feet of right-of-way and 10 feet of pavement. The site is bound to the north by an alley with 20 feet of right-of-way and 11 feet of pavement. Martin Luther King Jr. Blvd is the southern boundary of the property and is classified as an undivided major arterial with 77 feet of right-of-way and 38 feet of pavement. According to Section 25-6-114 of the Land Development Code, both Leona Street and Concho Street are considered local streets because at least 50 percent of the frontage within 1,500 feet of the subject tract has an urban family residential district (SF-5) or more restrictive zoning designation.

Trip Generation and Traffic Analysis

Based on the ITE's publication Trip Generation, and assuming the site develops to the maximum intensity allowed under the proposed zoning classification (without consideration of setbacks, environmental constraints or other site characteristics) the proposed development at the time of site plan may generate an approximate average of 2,359 (vpd) per site. However, the applicant has agreed to a conditional overlay of 2,000 trips for the site. The trip generation for the subject tract is summarized in Table 1.

Table 1. Trip Generation		
LAND USE	SIZE	VPD
Mixed-Use	Not determined	2,000
TOTAL		2,000

Table 2 represents the expected distribution of the 2,000 trips:

Street	Trip Distribution
MLK Jr. Blvd	65%
Leona St	15%
Concho St	5%
Total	100%

Table 3 represents a breakdown of background traffic*, proposed site traffic, and total traffic after development along Concho Street, Leona Street, and Martin Luther King Jr. Blvd.

Street	Pavement Width (Ft)	Maximum Desirable Volume (vpd)	Background Traffic (vpd)*	Proposed Site Traffic (vpd)	Overall Traffic (vpd)
Concho Street	10	1,200	66	100	166
Leona Street	30	1,800	900	300	1,200
MLK Jr. Blvd	38	N/A	16,027	1300	17,327

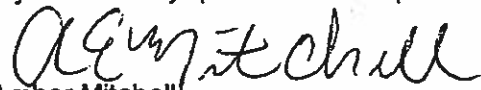
*Background traffic includes current traffic levels as well as recently approved zoning cases and zoning cases under consideration that could increase traffic on the streets under study.

The Land Development Code specifies desirable operating levels for certain streets in section 25-6-116. These levels are as follows: A residential local or collector street with a pavement width of less than 30' should carry 1,200 vehicles per day or less and a residential local or collector street with a pavement width between 30' and 40' should carry up to 1,800 vehicles per day.

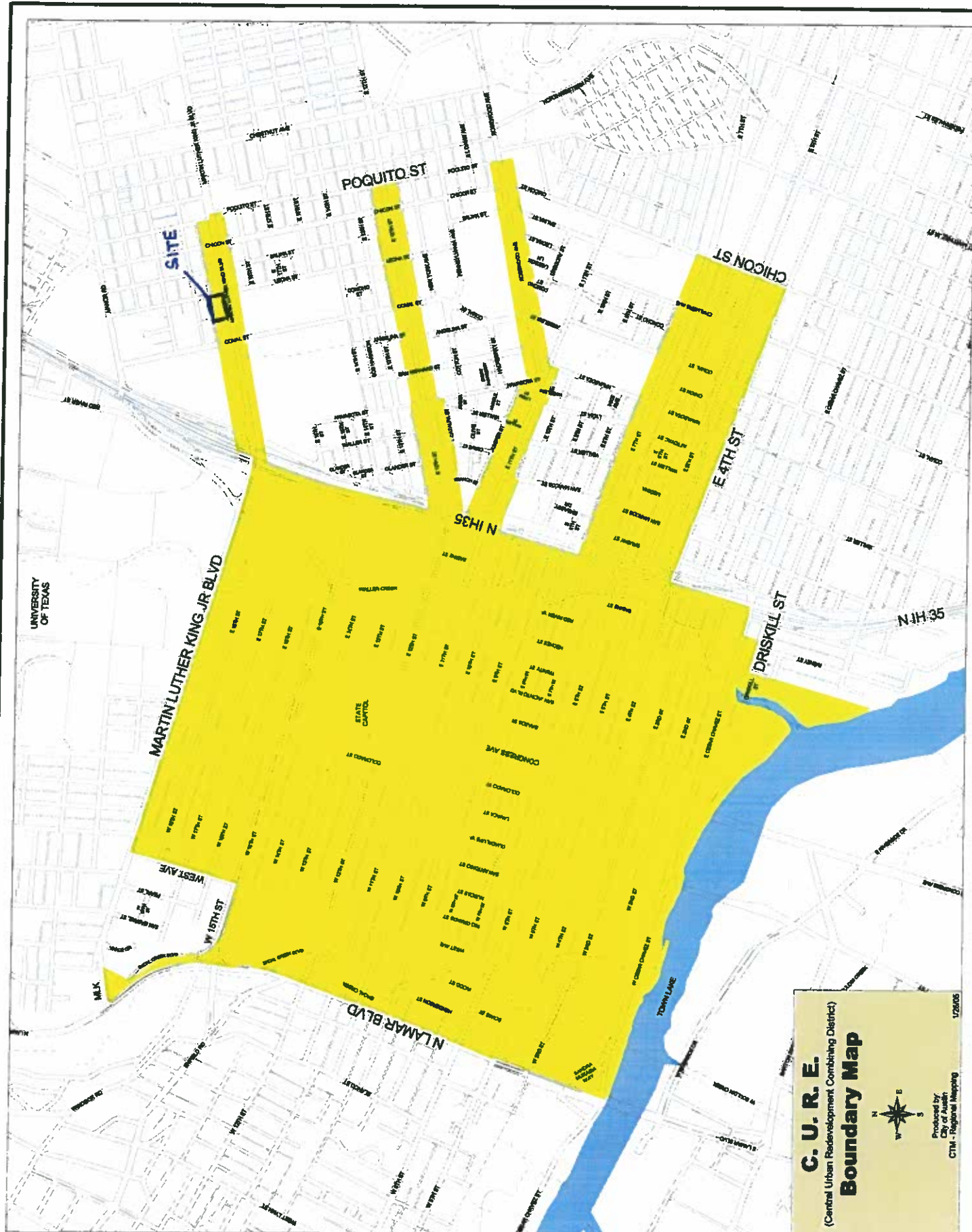
Conclusions

1. The neighborhood traffic analysis was triggered because the projected number of vehicle trips generated by the project exceeds the vehicle trips per day generated by existing uses by at least 300 trips per day, and the project has access to a local or residential collector street where at least 50 percent of the site frontage has an SF-5 or more restrictive zoning designation.
2. Currently, Concho and Leona Streets operate at a desirable level and will continue to operate at a desirable level with the addition of site traffic from the proposed development.
3. Concho St is considered to be in substandard condition and the applicant will need to acceptably upgrade the street at the time of site plan if access is proposed.
4. Staff recommends that this site be limited through a conditional overlay to 2,000 trips per day.

If you have any questions or require additional information, please contact me 974-3428.


Amber Mitchell

Senior Planner – Watershed Protection Development Review Department



C. U. R. E.
(Central Urban Redevelopment Combining District)
Boundary Map

Produced by
City of Austin
CTM - Regional Mapping

1/28/05



CONCEPT SITE PLAN

PSW- MLK Project

Austin, Texas

SEPTEMBER 30 2008

March 10, 2009

VIA E-MAIL

Mayor and Members of the City Council
PO Box 1088
Austin, Texas 78767

Re: Zoning Case C14-2008-0099 for the properties located at 1600-1606 E. MLK Blvd.
SF-3-NP to LR-MU-V-CO-CURE-NP—Recommended by City Staff, the Planning
Commission and the Blackland Neighborhood Association

Dear Mayor and Members of the City Council:

On Thursday, March 12, 2009, this zoning case will be presented for third reading. The purpose of this letter is to provide an update as to activity occurring since the second reading.

On the occasion of the second reading, some questions were raised on two issues:

Issue 1. Whether the Blackland Neighborhood Association supports the requested base zoning (LR-MU-V-CO-CURE-NP) even if certain height/set-back variances are not obtained, in which case the increased affordable rental housing component (including some profit-sharing) set forth in the Zoning & Development Agreement would not be implemented.

To clarify the Blackland Neighborhood Association's position on this point, Alan Hampton, President of the Blackland Neighborhood Association, wrote to each of you and stated unequivocally that the Blackland Neighborhood Association supports the requested re-zoning with or without the height/set-back variances ever being obtained.

Issue 2. Whether an alternative affordable housing component for the project was enforceable by the Blackland Neighborhood Association.

In order to address this issue, the applicant and the Blackland Neighborhood Association have agreed upon, executed and recorded an additional Restrictive Covenant guaranteeing a baseline/minimum rental affordable housing component for the project for forty (40) years even if the affordable housing requirement contained in the Zoning & Development Agreement becomes inoperative because the height/set-back variances are not obtained. The Restrictive Covenant provides:

Mayor and Members of the City Council
March 10, 2009
Page 2

1. **Ten Percent (10%) of the habitable residential square footage of the project will be made available as affordable rental units for families whose income level is at the sixty percent (60%) Median Family Income level.**
2. **The affordable units will not be clustered in one location in the project but will be intermingled with the other residential units in the project.**
3. **The Blackland Neighborhood Association is designated an enforcement party and is entitled to the recovery of its attorney's fees and costs incurred in any successful enforcement action that it undertakes.**

A copy of the recorded Restrictive Covenant is attached.

We hope that you will agree that the project's commitments combined with the support of the Blackland Neighborhood Association, arrived at after 15 months of cooperation, negotiation and compromise has resulted in a project that offers benefits to all. We appreciate your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Jerry L. Harris". The signature is written in a cursive, slightly stylized font.

Jerry L. Harris

CC: Robert Heil
Alan Hampton
Carter Shanklin
Jerry Diepenbrock
Ryan Diepenbrock

March 9, 2009

VIA E-MAIL AND HAND DELIVERY

Council Member Lee Leffingwell
Council Member Mike Martinez
PO Box 1088
Austin, Texas 78767

Re: Zoning Case C14-2008-0099 for the properties located at 1600-1606 E. MLK Blvd.
SF-3-NP to LR-MU-V-CO-CURE-NP

Dear Council Member Leffingwell and Council Member Martinez,

Thanks again for taking time to meet with me, Carter Shanklin, Ryan Diepenbrock, representing the applicant, and Roy Cipple, representing the Blackland Neighborhood Association, on February 5, 2009. We all appreciate your willingness to review the re-zoning for this project which is recommended by the Planning Commission and is supported by the Blackland Neighborhood Association.

As you recall, pursuant to the project's Zoning & Development Agreement with the Blackland Neighborhood Association, the Blackland Neighborhood Association is supporting the re-zoning change whether or not certain height/set-back variances are eventually obtained. In the Zoning & Development Agreement, the project committed to certain affordable rental housing requirements for forty (40) years and certain profit-sharing with the Blackland Community Development Corporation if the height/set-back variances were obtained.

The project has now entered into a Restrictive Covenant with the Blackland Neighborhood Association guaranteeing a baseline/minimum rental affordable housing component for the project for forty (40) years even if the affordable housing requirement contained in the Zoning & Development Agreement becomes inoperative because the height/set-back variances are not obtained. The Restrictive Covenant has been executed by the owner of the land and the Blackland Neighborhood Association. It has been recorded in Document No. 2009034871, Official Public Records of Travis County, Texas. The first attachment to this letter is a copy of this Restrictive Covenant. The Restrictive Covenant provides that:

Council Member Lee Leffingwell
Council Member Mike Martinez
March 9, 2009
Page 2

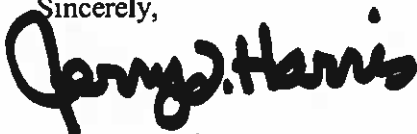
1. **Ten Percent (10%) of the habitable residential square footage of the project will be made available as affordable rental units for families whose income level is at the sixty percent (60%) Median Family Income level.**
2. **The affordable units will not be clustered in one location in the project but will be intermingled with the other residential units in the project.**
3. **The Blackland Neighborhood Association is designated an enforcement party and is entitled to the recovery of its attorney's fees and costs incurred in any successful enforcement action that it undertakes.**

The second attachment to this letter is a copy of the most recent letter from Alan Hampton, President of the Blackland Neighborhood Association, to the City Council expressing the Blackland Neighborhood Association's unequivocal support for the re-zoning regardless of the outcome of the height and setback variances that the project will be seeking.

Finally, the third attachment to this letter is a copy of a letter of support for the re-zoning from Michael Garrison, who is a 5-year member of the Blackland Neighborhood Association, is a neighborhood resident and is a Professor of Architecture at the University of Texas. Professor Garrison has long been involved in urban planning and green energy issues.

We hope that you will agree that the project's commitments combined with the support of the Blackland Neighborhood Association, arrived at after 15 months of cooperation, negotiation and compromise has resulted in a project that offers benefits to all. We appreciate your time and consideration.

Sincerely,



Jerry L. Harris

Enclosures

cc: Robert Heil, City of Austin (Via e-mail)
Alan Hampton, President of Blackland Neighborhood Association (Via e-mail)
Carter Shanklin (Via e-mail)
Jerry Diepenbrock (Via e-mail)
Ryan Diepenbrock (Via e-mail)
Nancy Williams (Via e-mail)
Andrew Moore (Via e-mail)



RESTRICT 2009334871

4 PGS

2/11/09

RESTRICTIVE COVENANT

ORIGINAL
FILED FOR RECORD

STATE OF TEXAS §
COUNTY OF TRAVIS §

WHEREAS, E-MLK Properties, L.L.C., a Texas limited liability company ("Owner") is the owner of Lots 1, 2, 3 and 4, Block 2, C.R. Johns and Co. Subdivision of Outlot No. 45, Division "B", located in Travis County, Texas according to the map or plat thereof of record in Volume 1, Page 3, Plat Records of Travis County, Texas (the "Property"). The Property is locally known as 1600, 1602, 1604 and 1606 East Martin Luther King Jr. Boulevard, Austin, Texas, and

WHEREAS, the Blackland Neighborhood Association has as its members owners and residents of property located within the boundaries of the Blackland Neighborhood Association as reflected in the files of the City of Austin, Texas, and

WHEREAS, the Blackland Neighborhood Association is organized and operates as an advocate to various governmental agencies of the interests of owners and residents of property located within the boundaries of the Blackland Neighborhood Association, and

WHEREAS, the Property is located within the boundaries of the Blackland Neighborhood Association, and

WHEREAS, Owner has applied to the City of Austin, Texas for a zoning change and neighborhood plan amendment for the Property in Case Numbers NPA-2007-0012.02 and C14-2008-0099 (collectively, the "Zoning Application"), and

WHEREAS, the Zoning Application requests (i) that the zoning on the Property be changed from Single-Family Residence-3-Neighborhood Plan Combining District (SF-3-NP) to Neighborhood Commercial-Mixed Use-Vertical Mixed Use Building-Conditional Overlay-Central Urban Redevelopment District-Neighborhood Plan Combining District (LR-MU-V-CO-CURE-NP) and (ii) that the Upper Boggy Creek Neighborhood Plan be amended to designate the Property for "Neighborhood Mixed Use", and

WHEREAS, the Blackland Neighborhood Association supports the approval of the Zoning Application, and

WHEREAS, the parties hereto want to set forth their agreement as to what the baseline/minimum affordable housing requirement will be for the Property in the event the affordable housing provisions in that certain Zoning and Development Agreement (the "Zoning and Development Agreement"), dated December 11, 2008, to which the Blackland Neighborhood Association and PSW Jacaranda LLC are parties, do not become operative, and

